



This document is scheduled to be published in the Federal Register on 08/11/2016 and available online at <http://federalregister.gov/a/2016-19132>, and on [FDsys.gov](http://FDsys.gov)

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 291

[Docket No. FR-5776-F-02]  
RIN 2502-AJ32

#### **Disposition of HUD-Acquired Single Family Properties; Updating HUD's Single Family Property Disposition Regulations**

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises HUD's property disposition regulations. Specifically, this rule consolidates and reorganizes these regulations to better reflect industry standards, and allow HUD to conduct its Single Family Property Disposition Program more efficiently and effectively so that HUD can obtain the greatest value for its real estate-owned (REO) properties in different market conditions. This final rule follows publication of the October 2, 2015, proposed rule and, after considering public comments submitted in response to the proposed rule, adopts the proposed rule with minor change.

**DATES:** Effective Date: **[Insert date 30 days from the date of publication in the Federal Register].**

**FOR FURTHER INFORMATION CONTACT:** Thomas Kumi, Director, Single Family Asset Management and Disposition Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9172, Washington, DC 20410-8000, telephone number 202-708-1672 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Section 204(g) of the National Housing Act (12 U.S.C. 1710g) addresses the management and disposition of HUD-acquired single-family properties, which includes HUD-acquired real and personal property assets. HUD's implementing regulations are codified in 24 CFR part 291. Under this statutory and regulatory authority, HUD is charged with carrying out a program of sales of HUD-acquired and owned properties, along with appropriate credit terms and standards to be used in carrying out the program. Property owned by HUD as a result of acquisition includes REO properties. The goals of HUD's Single Family Property Disposition Program are to reduce the inventory of single-family properties in a manner that minimizes losses to the Mutual Mortgage Insurance Fund (MMIF); promote the expansion of homeownership opportunities for American families by, among other things, selling such properties at a discount to State and local governments and HUD-approved nonprofit entities; and help stabilize distressed communities.

Following the economic and housing crises that began in 2008, the Federal Housing Administration (FHA) determined that it needed to revise, consolidate, and reorganize its property disposition regulations so that they better reflect industry standards, provide greater efficiency in the administration of HUD's property disposition program, and, ultimately, provide HUD the ability to obtain the greatest value for its REO properties in different market conditions. As a result, on October 2, 2015 (80 FR 59690), HUD published a rule that proposed certain changes to part 291. Specifically, HUD proposed the following changes:

1. *Ownership and Disposition Authority.* HUD proposed revising the heading of part 291 from "Disposition of HUD-Acquired Single Family Property" to "Disposition of HUD-Acquired

and -Owned Single Family Property” to reflect that HUD not only receives REO properties, but also holds and maintains them throughout the disposition process. For similar reasons, HUD proposed amending § 291.1(a) and § 291.90 to, respectively, reference HUD’s authority to acquire and possess properties and prescribe methods of sale and disposal of properties.

*2. Appraisal of HUD REO Properties.* HUD proposed amending § 291.100(b) to clarify that the list price for HUD REO properties may be established utilizing one or more evaluation tools. In addition to aligning requirements for REO appraisers with requirements for appraisers found in 24 CFR part 200, subpart G, to ensure consistency, the rule proposed expanding valuation methods available to include alternative methods commonly used in the real estate industry, such as Broker Price Opinions (BPO)<sup>1</sup> and Automated Valuation Models (AVM).<sup>2</sup>

*3. Escrow Amount Required for Properties Needing Repairs.* HUD proposed increasing to \$10,000 the maximum amount that buyers would be required to place into escrow for repairs in order to qualify for FHA mortgage insurance on properties that do not meet FHA’s Minimum Property Standards. In addition, to ensure that HUD can keep this amount updated, HUD proposed a provision that would allow HUD to increase or decrease the repair escrow based on changes to the Consumer Price Index<sup>3</sup> by issuing a Federal Register notice for comment.

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<sup>1</sup> A Broker’s Price Opinion (BPO) is the process a hired sales agent utilizes to determine the selling price of a real estate property. BPOs are popularly used in situations where lenders and mortgage companies believe the expense and delay of an appraisal to determine the value of properties is unnecessary. See <https://www.brokerpriceopinion.com>.

<sup>2</sup> Automated valuation model (AVM) is the name given to a service that can provide real estate property valuations using mathematical modeling combined with a database. Most AVMs calculate a property’s value at a specific point in time by analyzing values of comparable properties. Some also take into account previous surveyor valuations, historical house price movements, and user inputs (e.g., number of bedrooms, property improvements). Appraisers, investment professionals, and lending institutions use AVM technology in their analysis of residential property. It is a technology-driven report. The product of an automated valuation technology comes from analysis of public record data and computer decision logic combined to provide a calculated estimate of a probable selling price of a residential property.

<sup>3</sup> The Consumer Price Index (CPI) is prepared by the Department of Labor’s Bureau of Labor Statistics and is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services. For more information, see <http://stats.bls.gov/cpi/home.htm>.

4. *Listings*. HUD proposed amending § 291.100(h) to clarify that HUD has the statutory authority to allow for a number of listings options. Specifically, in addition to asset management and listing contracts, HUD proposed providing that it may dispose of properties using any use method that the Secretary deems appropriate. In addition, HUD proposed revising § 291.100(h)(2)(ii) to require the purchaser's broker to submit bids through HUD's designated electronic bid system rather than through the exclusive broker.

5. *Settlement Cost Assistance Available to Owner-Occupant Purchasers*. HUD proposed removing HUD's obligation to pay the broker's sales commission and clarifying that settlement cost assistance is only available to owner-occupant purchasers and not investor purchasers.

6. *Bidding Process for Competitive Sales*. HUD's October 2, 2015, rule proposed updating the bidding process established under the competitive sales procedures in § 291.205. Specifically, HUD proposed revising § 291.205(k) to provide for winning bids to be made available publicly rather than making them available for inspection at a time and place designated by the HUD local office. In addition, the rule proposed specifying that winning bidders may be notified by their brokers using electronic mail and that an executed sales contract will be deemed final when, after being signed by both parties, the executed contract is sent by email rather than via postal service delivery to the successful bidder.

7. *Good Neighbor Next Door (GNND)*. Finally, HUD proposed revising the GNND program to provide that law enforcement officers, similar to teachers and firefighters, live in the areas they serve.

## **II. This Final Rule**

This final rule follows publication of the October 2, 2015, proposed rule and takes into consideration the public comments received on the proposed rule. The public comment period

on the proposed rule closed on December 1, 2015, and HUD received six comments. The commenters were from a retail home mortgage lender, an organization of professional real property appraisers, an organization that provides appraisals, and members of the public. This section of this preamble presents a summary of the public comments received on the proposed rule, and HUD's responses to the comments. After considering these comments, HUD has decided to adopt the final rule as final with no substantive changes.

Comment: Limiting settlement cost assistance to owner-occupied purchasers will limit broker participation in the REO program. A commenter states that the proposal at § 291.205(b) to remove HUD's obligation to pay the broker's sales commission would be a major shift from the real estate industry. The commenter describes the current process of selling HUD homes as very similar to the traditional real estate market. According to the commenter, HUD's proposal would require that the sales broker ask the buyer to pay commission. This would create a significant difference between the sale and disposition of HUD homes and traditional sales of real estate and would likely deter real estate brokers from participating in the HUD sales process. The commenter also states that such a change would be unique to the HUD property disposition program and not in conformance with industry standards. The commenter suggests an alternative to address commission payouts; specifically, that HUD pay commissions based on the net sales price (Net-to-HUD). According to the commenter, this is a common and accepted practice in the real estate industry and would save hundreds of dollars per transaction and support HUD's goals of reducing inventory and minimizing losses.

HUD Response: The provision in the rule codifies that not all REO property sales transactions are sold through brokers (e.g., auctions, third-party sales at foreclosure, direct sales and, as such, HUD will not pay a commission to brokers for sale transactions that do not involve

a real estate broker. For transactions that involve the services of a broker, HUD will pay for services commensurate with the services obtained. For example, for properties that involve a listing and selling agent, HUD will continue to pay brokers a commission of up to 6 percent to market and sell the HUD REO property. Alternately, if a property is being sold through an auction at a pre-foreclosure sale, then HUD will not pay a real estate broker commission. The auction company markets the property and its fee is usually paid as part of the insurance claim.

Comment: HUD's selection of certain agencies to sell properties and provide appraisals does not provide HUD the greatest value for the properties. A commenter states that the entities with which HUD contracts for the sale of properties and for appraisals of these properties use favoritism in selecting agencies to sell the properties and provide the appraisals. According to the commenter, these practices do not benefit HUD in acquiring the greatest value for properties. The commenter recommends that HUD establish a cap that limits acquisition opportunities with these preferred groups, such that it would allow disposition through other agencies and a broader utility of approved appraisers. This, according to the commenter, would provide HUD a marked increase in return on REO properties.

HUD Response: HUD disagrees with the commenter. HUD selects its Asset Manager contractors through a competitive bidding process. HUD does not participate and is not privy to an Asset Manager's selection of its subcontractors, including appraisers. In addition, for Fiscal Years (FY) 2013, 2014, and 2015, HUD received an average of 90 percent of appraisal value for its single-family REO properties. This is a clear indication that the selection criteria used by HUD Asset Manager for selecting appraisers maximizes the recovery rates on HUD single-family REO properties.

Comment: State law may limit real estate licensees from performing a BPO to value the property. A commenter states that Pennsylvania prohibits real estate licensees from performing a BPO under their licenses if they are not separately licensed as an appraiser. According to the commenter, all that an agent can perform in Pennsylvania is a Competitive Market Analysis (CMA). As a result, the proposed rule would bar HUD or HUD Asset Managers in Pennsylvania from paying a fee to a sales agent for a BPO unless that agent was also a licensed appraiser. The commenter also suggests that other States may have similar prohibitions.

HUD Response: The provision in the rule codifies that HUD may utilize one or more valuation tools to determine the list price on its REO single-family properties. The specific services requested will be ordered only if permitted by State law. For example, if BPOs are not permitted to be performed by a broker, an AVM, CMA, appraisal, or BPO performed by an appraiser may be ordered by HUD's Asset Manager to establish the list price on an REO property.

Comment: HUD should allow servicers to participate in second chance Claims Without Conveyance of Title program. A commenter recommends, based on HUD's goal to reduce its REO inventory, that HUD consider allowing servicers to participate in a second chance program for their properties in post-sale that may not have been part of the Claims Without Conveyance of Title (CWCOT) program at the time of the foreclosure sale. The commenter states that its understanding is that unless loans were part of the original CWCOT program, they cannot be considered for second chance auction. The commenter requests that HUD reconsider this and believes that offering this opportunity to servicers will assist in meeting HUD's goal of reducing inventory and minimizing losses. According to the commenter, such a change would also reduce HUD staffing and contract expenses, and would benefit communities and tax authorities, which

would see a positive benefit as homes would be reoccupied more quickly, properties better maintained, and taxes and HOA and condominium fees paid. The commenter also states that this would also reduce the servicer's labor costs and out of pocket expenses.

HUD Response: HUD appreciates the commenter's recommendation; however, this rule does not affect CWCOT procedures. Rather, Mortgagee Letter 2014-24, Increasing Use of FHA's Claims Without Conveyance of Title (CWCOT) Procedures,<sup>4</sup> establishes the criteria for post-foreclosure, second chance sales efforts. The Mortgagee Letter provides mortgagees with instructions on accessing and utilizing the Commissioner's Adjusted Fair Market Value, which must be used for all foreclosure sales and post-foreclosure sales efforts. The mortgagee must determine the competitive and non-competitive Commissioner's Adjusted Fair Market Value (CAFMV) at the same time. Essentially, in the event a property does not sell to a third party at the foreclosure sale, mortgagees may pursue additional sales efforts (and may utilize independent third-party providers to conduct such sales) prior to making a final decision to convey the property to HUD. A mortgagee's decision to pursue additional sales efforts, subsequent to the foreclosure sale, does not relieve the mortgagee of its responsibility to convey a property to HUD within the required timeframe stated in § 203.359, unless a sales contract has been ratified. Where a sales contract has been ratified, the mortgagee will be granted a 30-day extension of the deadline for conveyance. As such, the Department encourages mortgagees to pursue additional sales efforts concurrently with their preconveyance processes to ensure that, in the event conveyance is necessary, the mortgagee is able to fully comply with FHA's conveyance timeframe. In the event a non-competitive CAFMV is used for the foreclosure sale, as in some judicial states, the competitive CAFMV value may be utilized for the post-foreclosure sales effort, if the requirements for competitive post-foreclosure sales are met.

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<sup>4</sup> Mortgagee Letter 2014-24 is available at <http://portal.hud.gov/hudportal/documents/huddoc?id=14-24ml.pdf>



Comment: HUD needs to adopt a direct conveyance model. A commenter expresses support for HUD's proposed rule, stating that the changes will equip HUD with additional tools necessary to increase the efficiency and effectiveness of its REO sales program and that the changes to HUD REO property appraisals and maximum escrow amounts for properties needing repairs will bring FHA practices a step closer to conformance with industry standards. The commenter states, however, that until FHA adopts a direct conveyance model, both its REO sales process and broader property preservation policy will continue to lag behind industry standards. Specifically, the commenter states that while creating and implementing a direct conveyance model is a significant undertaking, such a model would expand the same benefits HUD claims the proposed changes will confer on the market: FHA will be able to move properties to REO more quickly, at a reduced cost, while increasing the value of the MMIF. Ultimately, FHA will gain more flexibility in selling properties in "as-is" condition. The commenter states, however, that the changes proposed by this rule represent first steps toward such a model.

HUD Response: HUD appreciates the commenter's support of the changes proposed by HUD, but disagrees that HUD needs a direct conveyance model to increase the efficiency and effectiveness of its REO sales program. FHA does not buy, sell, or securitize FHA loans and, as such, does not own a loan secured by an FHA mortgage on the foreclosure sales date. A direct conveyance model does not ensure that HUD has marketable title on a property insured by an FHA mortgage at the foreclosure sale or the property does not have damages that should be repaired by the lender prior to conveyance.

If a property is not sold to a third party at the foreclosure sale, the lender obtains title. Once the lender ascertains that it has marketable title and the property is in conveyance condition, the lender files a claim for insurance benefits and the deed is recorded in HUD's

name. HUD's current conveyance model provides HUD with reasonable assurance that there are no encumbrances to a conveyed property that will prevent HUD from efficiently and effectively maintaining and marketing an REO property until it is sold.

Comment: BPOs are unregulated and performed by individuals with little oversight or training and HUD should require one independent appraisal. A commenter, focusing on § 291.100(b), cautions that BPOs are largely unregulated and are performed with little oversight and training. More specifically, the commenter states that BPO preparers have little valuation-specific education, training, and testing requirements, and do not adhere to generally accepted valuation standards. The commenter also states that AVMs are essentially statistical algorithms, reliant on public record data, which are often outdated and/or inaccurate. According to the commenter, AVMs are also historically weak in nonconforming markets, as individual property and local market conditions are largely overlooked. As a result, the commenter states that HUD should require at least one independent appraisal. This, according to the commenter, would be generally consistent with requirements imposed by Federal bank regulatory agencies, which require a current appraisal or evaluation for REO purposes.

HUD Response: HUD disagrees. Most sellers do not obtain an appraisal to determine the list price of their properties. Generally, the listing agent prepares a CMA. Currently, HUD orders an appraisal as a valuation tool in determining the list price of its REO properties. The appraisal is not always the sole basis of determining the list price. This final rule provides HUD with the flexibility of using one or more other valuation tools to establish the list price on its REO single-family properties. Since the competitive market ultimately determines the sales price for HUD REO properties in markets where the AVM, BPOs, etc., values have historically

been within a relevant range of appraisal values HUD may determine that it is not cost beneficial for HUD to order appraisals for establishing the list prices.

Comment: Independent appraisals are essential to protecting the taxpayer and the MMIF.

The commenter also states that the use of an independent appraisal will protect taxpayers from distressed sales below market value and help ensure that local communities do not have properties dumped on the market at below market prices. According to the commenter, quality appraisals are essential if HUD plans to reduce the inventory of single-family properties in a manner that minimizes losses to the MMIF. The commenter recommends that the final rule include a basic requirement for at least one appraisal prepared for REO purposes to protect taxpayers and local communities.

HUD Response: HUD disagrees with the commenter. As HUD states in response to an earlier comment, most sellers do not obtain an appraisal to determine the list price of their properties. This final rule provides HUD with the flexibility of using one or more other valuation tools to establish the list price on its REO single-family properties. Since, the competitive market ultimately determines the sales price for HUD REO properties, in markets where the AVM, BPOs, etc., values have historically been within a relevant range of appraisal values, HUD may determine that it is not cost beneficial for HUD to order appraisals for establishing the list prices. Properties that are security for mortgages to be insured by FHA are appraised to protect the insurance funds. In neighborhoods where FHA has insured a significant number of mortgages, there is an incidental benefit of preventing strategic default based on inflated values. Additionally, as a by-product, HUD's strategic goal of strengthening the nation's housing market to bolster the economy and protect consumers is advanced.

Comment: HUD should require two value opinions in the case of a disposition. The commenter also states that in the case of a disposition, HUD would benefit from obtaining two value opinions from real estate appraisal professionals; one for the current market value and one for the property's liquidation value. According to the commenter, such appraisals are common throughout the real estate sector and can be capably prepared by residential appraisal professionals. The commenter suggests that the Liquidation Value Addendum, published by the Appraisal Institute, would help HUD understand the range of risk exposure, with the liquidation value helping to illustrate the worst case scenario. The commenter states that such services would provide cost-effective alternatives to less credible services such as AVMs and BPOs. The commenter also recommends that, if HUD is not utilizing them today, it considers doing so before turning to less credible alternatives.

HUD Response: HUD disagrees. As HUD states in response to an earlier comment, for FY 2013, FY 2014, and FY 2015, HUD's average sales price as a percentage of appraised value was 90 percent. HUD believes that ordering a Liquidation Value Addendum from an appraiser as an additional cost is not cost effective. A liquidation value is often obtained from the listing agent through a CMA as part of the listing broker commission to support price adjustments.

BPOs, CMAs, and AVMs are widely used by various market participants. HUD believes that when two or more of these valuation tools are within a relevant range, the values are generally regarded as reliable.

Currently, HUD orders an appraisal as a valuation tool in determining the list price of its REO properties. The appraisal is not always the sole basis of determining the list price. The rule provides HUD with the flexibility of using one or more other valuation tools to establish the list price on its REO single-family properties. Since, the competitive market ultimately determines

the sales price for HUD REO properties, in markets where the AVM, BPO, etc., values have historically been within a relevant range of appraisal values, HUD may determine that it is not cost beneficial for HUD to order appraisals for purposes of establishing the list prices.

Comment: HUD should expand the list of valuation services available. Finally, the commenter recommends that, HUD should insist on expanding the range of valuation services available to the agency, the list be expanded to include nontraditional valuation services performed by real estate appraisers that are commonly utilized in asset management and disposition. That list, according to the commenter, should include, at a minimum, opinions of market value and liquidation or disposition value by appraisers, drive-by appraisals, and desktop appraisals, in addition to interior inspection appraisals. According to the commenter, this would provide HUD with the full range of valuation services that are available in the conventional market.

HUD Response: The final rule provides examples of valuation methods that may be used. The list is not all-inclusive and enables HUD to use valuations tools that are currently in existence or that are developed in the future, as appropriate.

### **III. Findings and Certifications**

#### Executive Order 12866 and Executive Order 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.

The majority of the changes made by this final rule streamline HUD's property disposition program by bringing its practices into conformance with industry standards and allowing HUD to administer its Single Family Property Disposition Program more efficiently and more effectively. These changes do not create additional significant burdens for the public. As a result, this rule was determined to not be a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and therefore was not reviewed by OMB.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule does not have a significant economic impact on a substantial number of small entities. HUD defines "small supervised lenders" as those depository institutions that are regulated by the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the National Credit Union Administration, and which have a depository asset base of less than \$500 million.<sup>5</sup>

This rule final rule codifies changes to the administration of HUD's property disposition and acquisition activities carried out as part of the FHA insurance program for one-to-four family homes. These changes include limiting the provision of settlement cost assistance to owner-occupants, providing HUD flexibility to run the bidding process for REO properties, changes to the direct sales process, additional flexibility to list properties electronically, changes to the required escrow amount for purchasers obtaining property not meeting HUD's property standards, and clarifications in the rule governing HUD's appraisal process. These changes

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<sup>5</sup> Of HUD's 1,459 supervised lenders, 598 are considered, by HUD, to be "small supervised lenders."

streamline HUD's administration of its Single Family Property Disposition Program and reflect industry practice. For these reasons, HUD has determined that this final rule does not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

The information collection requirements contained in this final rule have been approved by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0306. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

#### Environmental Impact

A Finding of No Significant Impact (FONSI) with respect to environment has been made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of National Environmental Policy Act (42 U.S.C. 4332(2)(C)). The FONSI remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m., weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the FONSI by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

#### Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either (i) imposes substantial direct compliance costs on State and local governments and is not required by statute or (ii) preempts State law,

unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

#### **List of Subjects in 24 CFR Part 291**

Community facilities, Conflict of interests, Homeless, Lead poisoning, Low and moderate income housing, Mortgages, Reporting and recordkeeping requirements, Surplus government property.

Accordingly, for the reasons stated in the preamble above, HUD amends 24 CFR part 291 as follows:

### **PART 291--DISPOSITION OF HUD-ACQUIRED AND -OWNED SINGLE FAMILY PROPERTY**

1. The authority citation for part 291 continues to read as follows:

**Authority:** 12 U.S.C. 1701 et seq., 42 U.S.C. 1441, 1441a, 1551a and 3535(d)

2. Revise the heading of part 291 to read as set forth above.

3. Revise § 291.1(a)(1) to read as follows:

#### **§ 291.1 Purpose and general requirements.**



(a) \* \* \*

(1) This part governs the acquisition, possession, and disposition of one-to-four family properties acquired by the Federal Housing Administration (FHA) through foreclosure of an insured or Secretary-held mortgage or loan under the National Housing Act, or acquired by HUD under section 204(g) of the National Housing Act (12 U.S.C. 1710(g)). HUD will issue detailed policies and procedures that must be followed in specific areas.

\* \* \* \* \*

4. Amend § 291.5 by removing paragraph (a) and the introductory text of paragraph (b), adding introductory text to the section, and adding alphabetically the definition of “Secretary” as follows:

**§ 291.5 Definitions.**

Terms used in this part are defined as follows:

\* \* \*

*Secretary* is defined in 24 CFR 5.100.

\* \* \* \* \*

5. Amend § 291.90 by revising the introductory text to read as follows:

**§ 291.90 Sales methods.**

In accordance with section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), HUD will prescribe the terms and conditions for all methods of sale. HUD may dispose of assets using any method that the Secretary deems appropriate, including, but not limited to the following:

\* \* \* \* \*

6. Amend § 291.100 by revising the section heading and paragraphs (b), (c), (d), and (h) to read as follows:

**§ 291.100 General policy on HUD acquisition, ownership, and disposition of real estate assets.**

\* \* \* \* \*

(b) *List price.* The list price, or “asking price,” assigned to the property is based upon one or more evaluation tools (e.g., appraisal, Broker Price Opinion, Automated Valuation Model). An appraisal, when used, must be conducted by an independent real estate appraiser who meets all of the requirements of 24 CFR part 200, subpart G, and is in good standing on the appraiser roster established under that section. The appraiser must provide an opinion of the “as-is” market value using a valuation method that is commonly employed in the industry and that is consistent with FHA appraisal requirements.

(c) *Insurance.* When listing properties, HUD may elect to include information to indicate whether the property is eligible for FHA-insured financing under section 203(B) of the National Housing Act (12 U.S.C. 1709(b)).

(d) *Financing.* (1) Subject to underwriting requirements, REO properties that have not been identified as uninsurable in accordance with paragraph (c) of this section can be purchased and financed with a mortgage insured under section 203(b) or 203(k) of the National Housing Act (12 U.S.C. 1709(b), 1709(k)), if supported by an FHA appraisal, in one of the following ways:

(i) *Insured.* A property that meets the Minimum Property Standards (MPS), as defined in HUD Handbook 4905.1 or any successor handbook, as determined by the Secretary, for existing

dwellings will be offered for sale in “as-is” condition with FHA mortgage insurance available as provided in part 203 of this chapter.

(ii) *Insured with repair escrow.* (A) A property that requires no more than \$10,000 for repairs to meet the MPS, as defined in HUD Handbook 4905.1 or any successor handbook, as determined by the Secretary, will be offered for sale in “as-is” condition with FHA mortgage insurance available, as provided in part 203 of this chapter, provided the mortgagor establishes a cash escrow to ensure the completion of the required repairs.

(B) *Changes in repair escrow.* HUD may adjust the escrow balance required under this paragraph based on changes to the Consumer Price Index by publishing a Federal Register notice that provides for a public comment period of 30 calendar days for the purpose of accepting comments on the amount of the change. After comments have been considered, HUD will publish a final notice announcing the revised escrow amounts.

(iii) *Insured with rehabilitation loan* in accordance with section 203(k) of the National Housing Act and pursuant to § 203.50 of this chapter.

(2) REO properties that have been identified as uninsurable in accordance with paragraph (c) of this section can be purchased and financed with a mortgage insured under section 203(k) of the National Housing Act (12 U.S.C. 1709(k)), subject to underwriting requirements supported by an FHA-specified appraisal and in accordance with 24 CFR 203.50.

(3) HUD, in its sole discretion and subject to appropriations, may take back Purchase Money Mortgages (PMMs) on property purchased by governmental entities or private nonprofit organizations who buy property for ultimate resale to owner-occupant purchasers with incomes at or below 115 percent of the area median income. When offered by HUD, a PMM will be

available in an amount determined by the Secretary to be appropriate, at market rate interest, for a period not to exceed 5 years. Mortgagors must meet FHA mortgage credit standards.

(i) For purposes of this section, the term “purchase money mortgage,” or PMM means a note secured by a mortgage or trust deed given by a buyer, as mortgagor, to the seller, as mortgagee, as part of the purchase price of the real estate.

(ii) Except as provided in paragraph (d)(3) of this section, the purchaser is entirely responsible for obtaining financing for purchasing a property.

\* \* \* \* \*

(h) Any real estate broker who has agreed to comply with HUD requirements may be eligible to participate in the sales program. Purchasers participating in the competitive sales program, except government entities and nonprofit organizations, must submit bids through a participating broker. In accordance with section 204(g) of the National Housing Act (12 U.S.C. 1710(g)), HUD will prescribe the terms and conditions for all methods of listing properties. HUD may dispose of properties using any method that the Secretary deems appropriate, including, but not limited to the following:

(1) *Open listings.* Properties may be sold on an open listing basis with participating real estate brokers.

(2) *Asset management and listing contracts.* (i) HUD may invite firms experienced in property management to compete for contracts that provide for an exclusive right to manage and list specified properties in a given area.

(ii) In areas where a broker has an exclusive right to list properties, a purchaser may use a broker of his or her choice. The purchaser’s broker must submit the bid through HUD’s designated electronic bid system.

7. Amend § 291.205 by revising the introductory text and paragraphs (b), (k)(1), (k)(2), and (l) to read as follows:

**§ 291.205 Competitive sales of individual properties.**

When HUD conducts competitive sales of individual properties to individual buyers, it will generally sell the properties on an “as-is” basis, without repairs or warranties, and it will follow the sales procedures provided in this section.

\* \* \* \* \*

(b) *Net offer.* (1) The net offer is calculated by subtracting from the bid price the dollar amounts for the financing and loan closing costs and the broker’s sales commission, as described in paragraph (b)(2) of this section.

(2) If an owner-occupant purchaser of the property requests in the bid, HUD may pay all or a portion of the financing and loan closing costs, not to exceed the percentage of the purchase price determined appropriate by the Secretary for the area. In no event will the total amount for broker’s sales commission exceed 6 percent of the purchase price, except for cash bonuses offered to brokers by HUD for the sale of hard-to-sell properties. No assistance for financing and loan closing costs or for the broker’s sales commission will be provided to investor purchasers.

(k) \* \* \*

(1) The Secretary will make all winning bids available publicly.

(2) Successful bidders will be notified through their real estate brokers by electronic mail, mail, telephone, or other means. Acceptance of a bid is final and effective only upon HUD’s execution of the sales contract, signed by both the submitting real estate broker and the

prospective purchaser, and sending a copy of the executed contract by electronic mail to the successful bidder or the bidder's agent.

(1) *Counteroffers*. HUD may present counteroffers during competitive bid periods, as it deems appropriate to minimize losses to its insurance fund. "Best and Final" offers requested by HUD are considered counteroffers.

8. Revise § 291.500 to read as follows:

**§ 291.500 Purpose.**

This subpart describes the policies and procedures governing the Good Neighbor Next Door (GNND) Sales Program. The purpose of the GNND Sales Program is to improve the quality of life in distressed urban communities. This is to be accomplished by encouraging law enforcement officers, teachers, and firefighters/emergency medical technicians to purchase and live in homes that are located in the same communities where they perform their daily responsibilities and duties.

9. Revise § 291.505 to read as follows:

**§ 291.505 Definitions.**

For purposes of this subpart:

Locality means the community, neighborhood, or jurisdiction of the unit of general local government, or Indian tribal government;

Unit of general local government means a county or parish, city, town, township, or other political subdivision of a State.

10. Amend § 291.520 by removing “and” from the end of paragraph (a), removing the period and adding “;and” in its place at the end of paragraph (b), and adding paragraph (c) to read as follows:

**§ 291.520 Eligible law enforcement officers.**

\* \* \* \* \*

(c) The full-time employment in paragraph (a) of this section must, in the normal course of business, directly serve the locality in which the home is located.

11. Revise § 291.525(b) to read as follows:

**§ 291.525 Eligible teachers.**

\* \* \* \* \*

(b) The full-time employment in paragraph (a) of this section must, in the normal course of business, serve students from the locality where the home is located.

12. Revise § 291.530 to read as follows:

**§ 291.530 Eligible firefighter/emergency medical technicians.**

A person qualifies as a firefighter/emergency medical technician for the purposes of the GNND Sales Program if the person is:

(a) Employed full-time as a firefighter or emergency medical technician by a fire department or emergency medical services responder unit of the Federal Government, a State, unit of general local government, or an Indian tribal government; and

(b) The full-time employment in paragraph (a) of this section must, in the normal course of business, directly serve the locality where the home is located.

Date: August 5, 2016

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Edward L. Golding, Principal Deputy  
Assistant Secretary for Housing

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Nani A. Coloretti, Deputy Secretary

Approved: August 5, 2016.

**[FR-5776-F-02]**

[FR Doc. 2016-19132 Filed: 8/10/2016 8:45 am; Publication Date: 8/11/2016]